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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Roger Snow                      Examiner: Benjamin Layno  
Serial No. 10/658,864                      Group Art Unit: 3711  
Filed: September 9, 2003                      Docket No. PA0912.ap.US  
Title: A CASINO CARD GAME WITH PARLAY BET FEATURE

**MAIL STOP APPEAL BRIEF - PATENTS**

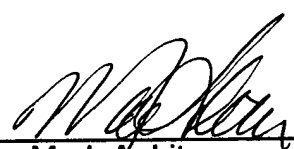
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**The following documents are hereby submitted:**

- ☒ Supplemental Brief on Appeal to the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office (three copies)
- ☒ Transmittal Sheet
- ☒ Return postcard

**Please consider this a PETITION FOR EXTENSION OF TIME for sufficient number of months to enter these papers if an additional extension of time is deemed necessary by the Office. Authorization is hereby given to charge Deposit Account Number 50-1391 if such additional extension is necessary.**

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CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being deposited in the United States Postal Service, as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Appeal Brief - Patents, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on 21 July 2006

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US/N 10/658,864

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

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P.O. BOX 1450

Commissioner for Patents

Alexandria, VA22313-1450

Sir:

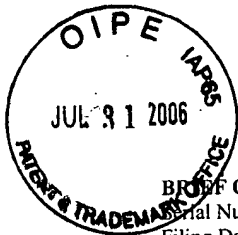
This is a **SUPPLEMENTAL** Brief on Appeal filed in triplicate with the U.S. Patent and Trademark Office on an appeal from a final rejection by the Examiner. **Appellant requests a personal appearance before the Board of Appeals, and the fee for that appearance will be held in abeyance until the receipt of an Examiner's Answer, the Supplemental Brief having been required by the decision of the Board of Appeals mailed on July 6, 2006. NO ADDITIONAL FEES ARE REQUIRED AT THIOS TIME AS THE FEES FOR FILING A BRIEF ON APPEAL HAVE ALREADY BEEN SUBMITTED AND PAID.**

The U.S. Patent and Trademark Office is hereby authorized to debit any ADDITIONAL costs and fees associated with this Petition to Deposit Account No. 50-1391.

CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being deposited in the United States Postal Service, as first class mail, with sufficient postage, in an envelope addressed to: MAIL STOP: APPEAL BRIEF - PATENTS, P.O. BOX 1450, Commissioner for Patents, Alexandria, VA 22313-1450 21 JULY 2006.

Mark A. Litman  
Name

Signature



BRIEF ON APPEAL  
Serial Number: 10/ 658,864  
Filing Date: September 9, 2003  
Title: A CASINO CARD GAME WITH PARLAY BET FEATURE

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**BRIEF ON APPEAL**

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**REAL PARTY IN INTEREST**

The real party in interest in this Appeal is the assignee of the full right, title and interest in this Application, Shuffle Master, Inc., having a place of business at 1106 Palms Airport Drive, Las Vegas, Nevada 89119-3730.

**RELATED APPEALS AND INTERFERENCES**

The Appellant(s), the legal representative prosecuting this application and Appeal, and the assignee are not aware of any Appeals or Interferences that will directly affect or have a bearing on the Board's of Patent Appeals and Interferences decision in this pending Appeal.

**BRIEF ON APPEAL**

Serial Number: 10/ 658,864

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**STATUS OF CLAIMS**

Claims 1-20, All of the Claims in the Application, Have Been Finally Rejected under 35 USC 103(a) As Unpatentable over Brunelle in View of Jones.

### **STATUS OF AMENDMENTS**

A Response After final rejection (Request for Reconsideration) was filed on 01 August 2005, within a two-month period after Final Rejection and that Response was considered by the Examiner. There were no Amendments to the claims made in that Response. An Advisory Action was mailed by the PTO on August 9, 2005.

### **SUMMARY OF CLAIMED SUBJECT MATTER**

The technology of this application relates to a method of playing a live casino card game with a bonus game component. In the play of the method, certain definite steps must be made. Those steps, **RECITED IN EACH OF THE TWO INDEPENDENT CLAIMS 1 AND 20 (as shown below)** include:

1) A player making a first wager to play in the live casino card game and the player placing an optional side bet bonus wager on the bonus game component. **(Claims 1 and 20)**

2) After the bet (and when made, after the optional side bet is made) a first number of cards are dealt to a bonus hand position and a second number of cards are dealt to the player as the player's hand. There may be multiple players. **(Claims 1 and 20)**

3) When the player hand has at least a predetermined winning arrangement of cards comprising a preselected winning poker rank, the player attains at least a first bonus amount level on the player's placed **side bet** wager. This winning event is based solely upon the poker rank of the player's hand and is based on the first wager. **(Claims 1 and 20)**

4) when the player has a winning arrangement of cards and the first number of cards **(in the bonus hand)** has at least a winning arrangement of cards, enhancing the first bonus amount level attained by the player **on the side bet wager**. Thus, both an initial bonus win (on the hand against a payable) and a second bonus win (on the bonus hand against a payable) are offered on the same bonus side bet wager. **(Claims 1 and 20)**

Thus, in this format of play, a player wins a first winning amount against a payable (that cannot be lost in the play of any remaining game considerations) when the player's hand (the second number of cards) has at least a predetermined poker rank.



After the play of the player's hand against the payable, the bonus hand is evaluated. If the bonus hand is itself at least a predetermined rank according to a distinct payable, the first winning amount is increased (e.g., added to, multiplied, or a multiple added thereto) to increase the original winning amount. The bonus award is played by the bonus hand against a payable, and the bonus amount win may be independent of the relative rank of the player's hand and the bonus hand. (See original claims 1-3; page 7, lines 1-6; page 7, line 13 through page 8, line 11). (**Claims 1 and 20**)

The subject matter of the second Independent claims ((**Claim 20**) is narrower than that of claim 1 by reciting:

“...only two hands are dealt as between each player, a player hand and a bonus hand;...”

**GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

**Claims 1-20 Have Been Finally Rejected under 35 USC 103(a) As**

**Unpatentable over Brunelle in View of Jones.**

Solely for the purposes of expediting this Appeal and complying with the requirements of 37 C.F.R. 1.192(c)(7), the following rejection is on Appeal and Applicants have suggested a grouping of claims. This grouping is not intended to constitute any admission on the record that claims within groups may or may not be independently asserted in subsequent litigation or that for any judicial determination other than this Appeal, the claims may or may not stand by themselves against any challenge to their validity or enforceability.

## **ARGUMENT**

### **The rejection of Claims 1-20 under 35 USC 103(a) As Unpatentable over Brunelle in View of Jones.**

There are numerous recitations and limitations in the claims which first distinguish from Brunelle, and which limitations are then not taught or rendered obvious by Jones in a manner that would suggest their combination with Brunelle.

For the reasons explained below, neither Brunelle alone nor Brunelle in view of Jones shows any game where two distinct **bonus** events occur on the same wager. That is a specific and unmistakable requirement of the present claims. In the absence of any such teaching, there can be no obviousness of the claimed invention.

Brunelle shows a side bet wager with a single bonus event attached thereto (play of the bonus hand). Jones shows a side bet wager with a single bonus event (attainment of a ranked hand). There is no motivation or reason to combine these two distinct and unique events into a single bonus bet game play except the description provided in Appellant's specification.

It is believed also that there is some degree of misunderstanding of how the game recited in the claims is played. Looking at claim 1, a simplified reading of the game is presented below from that recitation:

<b>CLAIM 1</b>	<b>INTERPRETATION OF APPELLANT'S CLAIM</b>	<b>DIFFERENCE FROM BRUNELLE</b>
a player making a wager to play in the live casino card game and placing an optional side bet bonus wager on the bonus game component;	The player places a game bet and a bonus bet	None
a first number of cards are dealt to a bonus hand position;	A bonus hand and a player's hand are dealt	Brunelle also requires that a dealer hand be dealt for

a second number of cards are dealt to the player,		competition against the player hand. <b>This is neither required nor excluded by the claims.</b>
when the player hand has at least a predetermined winning arrangement of cards comprising a preselected winning poker rank,	The player need only have a predetermined ranked poker hand and have placed the bet to enter the bonus.	Brunelle states (Col. 2, lines 52-62) "To qualify for a bonus hand, a player must post a bonus ante stake... <b>and have a three card total less than a predetermined count value M...</b> " *(See below)
the player attains at least a first bonus amount level on the player's placed optional side bet bonus wager;	The player wins a bonus on the poker ranked hand based on the side bet bonus wager	Brunelle pays a bonus on the game bet wager only when there is a count of 3 (three aces) in the Player's hand. <b>There is no bonus paid for a player's hand on the bonus bet versus a poker rank. The single bonus is based on a count (of 3) which is not regarded as a poker rank.</b>
when the player has a winning arrangement of cards and the first number of cards has at least a winning arrangement of cards, enhancing the first bonus amount level attained by the player.	When the bonus hand has a ranked hand, an additional bonus is paid <b>based on the bonus wager.</b>	<b>Brunelle cannot enhance the first bonus amount attained by the player on the side bonus bet, as he has not paid anything on the side bonus bet to the player under any circumstance, even when the count of 3 was attained.</b> The only possible bonus to the player is on a count of 3, and that is paid on the game bet wager, only.

\*Brunelle further states on Column 2, lines 55-61 that “Each player whose had is 9 or lower **and** who wage red [*sic*, “wagered”] the bonus ante stake is eligible to play the bonus hand at the end of the round.”

As can be seen from this comparison, a crucial element missing from Brunelle is the fact that Brunelle does not pay a bonus on the player hand based upon the **side bet wager** even if the player hand qualifies with a low count. Additionally, Brunelle deals a dealer hand and the win/loss on the game bet wager is based solely upon a player-versus-dealer competition. The claims do not exclude the presence of a dealer hand, but the win/advance mode required in the claim is based on the poker rank of the player hand, which is not taught by Brunelle or Jones. This play of Brunelle is in contrast with the play of the recited game of Claim 1, which requires payment to the player of a bonus on the side bet wager (no bonus is required on the game play wager) for a ranked poker hand and a second bonus wager dependent upon the bonus hand rank.

**FIRST – Claim 1 recites** “when the player hand has at least a predetermined winning arrangement of cards comprising a preselected winning poker rank, the player attains at least a first bonus amount level on the player’s placed optional side bet bonus wager.” This recitation means that the player attains (is awarded) a first bonus amount on the player’s side bet bonus wager when the player’s hand achieves a first rank. This does not occur in Brunelle. Player’s initial hands can win only on their game bet, when the player hand wins against the dealer’s hand. This is true, even though the size of the payout may be dependent upon a combination of analysis of player’s hand count and dealer’s hand count, **THERE IS NO PAYOUT ON THE SIDE BET OF BRUNELLE EXCLUSIVELY BASED ON A PLAYER’S WINNING POKER HAND RANK.**

Look at the two tables on columns 5, 6, 7 and 8 of Brunelle. Table 1 shows a single payout on lines 1-5 of columns 7 and 8, with all other information in the table limited to strategy of play. All payouts shown in Table II are based upon combined

counts in the player's hand and the bonus hand. There is no individual winning amount for a predetermined arrangement of cards. Brunelle fails to teach this limitation, and the claim, as amended, cannot be anticipated and as further evidenced and argued below, is not obvious. The single bonus payout in Brunelle for a count of 3 is based upon the initial wager, not the side bet.

**SECOND - Claim 1 recites** "when the player has a winning arrangement of cards comprising a preselected winning poker rank, and the first number of cards has at least a winning arrangement of cards." Advancement into the bonus round by Brunelle, because the first hand does not receive any payment on the bonus round because of its own rank, and because the winning event (with a payout to the player in the player's hand only) is direct play against the dealer's hand, Brunelle does not have any "predetermined winning arrangement" of cards. Brunelle has a qualifying count (which does not get a payment and therefore doesn't win) to enter the bonus round. This qualifying count may happen to win against the dealer's count (but that winning event not predetermined). Brunelle fails to teach this limitation, and the claim cannot be obvious over Brunelle alone, and this combination of events is not suggested or taught by Jones.

This deficiency is also not corrected by Jones. Jones shows a single bonus event attached to the side bet bonus wager. The player either wins or loses on the wager with the poker rank of the player's hand. There is no qualifying event (as in the at least a poker rank ion the player's hand as recited in claim 1 or the at least a low point count required in Brunelle) taught by Jones. The Jones bonus event stands completely on its own.

**THIRD – Claim 1 finally recites** "when the player has a winning arrangement of cards and the first number of cards has at least a winning arrangement of cards, enhancing the first bonus amount level attained by the player." This limitation has two elements not

taught by Brunelle or Brunelle and Jones in combination. First, the claim requires both a winning arrangement of cards based on a predetermined rank (**the qualifying count of Brunelle does not necessarily win**) and the first number of cards (the bonus hand) independently must have a predetermined winning arrangement of cards. As noted, in the play of Brunelle there is no **winning** arrangement of cards in the player's hand, only a qualifying count, for which the player is not necessarily paid, unless he beats the dealer's hand.

Next, the claim 1 on Appeal requires "enhancing the first bonus amount level attained by the player." As the player in Brunelle cannot win bonus money on the side bet bonus wager based solely on the bonus wager and the count of the player's hand, but may only qualify for a later payment with a qualifying maximum total, there is never any "first bonus amount level attained by the player" based on the bonus wager. Therefore there is no first bonus amount level attained by the player to be increased.

Additionally, when Brunelle wins on the relative cumulative count of the player's hand versus the dealer's hand, this is not a win under the bonus wager side bet as recited in the claim, but is a win on the ante or play wagers. Brunelle fails to teach this limitation. Jones does not correct these deficiencies as Jones teaches his own unique bonus event, which has no qualification step and is a single stage poker event with bonus paid on both the side bet and a play bet (supplementing the ante). There are not two potential distinct bonus event payouts on a single side bet wager as recited in the claims.

Even if the Rejection attempts to combine elements of Brunelle with elements of Jones, the teachings are not motivated to produce a side bet bonus wager event where two distinct bonuses are available on the same wager. There is no direction to combine the references in any specific format or fashion that that would produce the method recited in claim 1.

As can be seen from this comparison, the reference does not actually teach what the Office Action asserts. As the failures in the actual teachings differ from critical assertions in the rejection, that rejection must fail as an anticipation of the claims. A further comparison of what the reference actually teaches and what is claimed is made below to further show the patentability of the claims. This additional comparison is done to show that critical steps in the play of Brunelle must be eliminated (for no motivated reason) in even an awkward attempt to create the recited game of Appellants from the teachings of the Brunelle and Jones references.

CLAIM 1	TEACHINGS OF BRUNELLE	COMMENTS
A method of playing a live casino card game with a bonus game component comprising:	A wagering card game	
a player making a wager to play in the live casino card game and placing an optional side bet bonus wager on the bonus game component;	Each player makes a bet.	
a first number of cards are dealt to a bonus hand position; a second number of cards are dealt to the player,	Three cards are dealt face down to each player, to the dealer and to the bonus hand.	
	The dealer combines his dealt cards with his count limit card and states his total.	<b>There is no dealer hand or count total, or count limit card in Applicant's claims.</b>
when the player hand has at least a predetermined winning arrangement of cards, the player attains at least a first bonus amount	The dealer then turns over each player's cards one at a time, compares each player's hand with the dealer's hand, determines	<b>The win/loss event is based solely upon the rank of a hand. All awards and amounts of awards are based on rank. There is</b>



level on the player's placed optional side bet bonus wager;	whether the player is a loser or winner.	<b>no comparison with a non-existent dealer's hand.</b>
when the player has a winning arrangement of cards	Any player who placed a bonus ante having a total less than or equal to a predetermined bonus count value (for example 9) is eligible for the bonus hand.	<b>Advancement in potential awards occurs with a winning arrangement of cards, not a count total of cards.</b>
	The dealer turns over the bonus hand cards and announces the bonus hand total.	<b>The bonus hand rank is displayed. There is no count involved.</b>
and the first number of cards has at least a winning arrangement of cards, enhancing the first bonus amount level attained by the player.	The dealer then refers to a bonus payout table and pays according to the payout value which matches with the player hand total and the bonus hand total.	<b>There are no winning arrangements of cards, but only a count required by Brunelle. The player hand does not need to win to advance to a bonus consideration, but only need have a count less than 9.</b>

As can be seen, there is a failure in the disclosure of Brunelle to teach the limitations of the claim 1 as originally filed, and there are steps disclosed in Brunelle that are inconsistent with combination with Jones to establish a game similar to that recited in the present claims. **There are three critical and interrelated features required by Brunelle that cause the reference to fail to anticipate specific recitations in claim 1.**

**The Failure of the Teachings of the Jones Reference with Respect to Other Claim Limitations**

With respect to claims 9-12, with claim 9 being the independent claim in this group, claim 9 recites:

“A method of playing a casino table **poker-type** card game wherein a bonus hand, a dealer's hand and a player's hand are dealt,

wherein the player plays against the dealer's hand for rank and the player may have a bonus award to be paid on the player's hand enhanced by a predetermined rank being present in the bonus hand."

Brunelle does not teach "poker-type card games." Brunelle teaches only a count game (similar to blackjack or baccarat), and therefore claims 9-12 cannot be anticipated. There is no discussion of rank. Three Aces is a good hand in Brunelle because it has the lowest count of 3, not because it has a poker rank of three-of-a-kind.

Please also note the absence in Brunelle and Jones of the **SECOND** and **THIRD** issues discussed above with respect to Claim 1, those claim elements being present with different language in claim 9. Those claim limitations are clearly absent from Brunelle (as detailed above) and from its combination with Jones, which does not have multiple hands against which the player engages, and therefore cannot have the bonus hand emphasized in those limits.

The clearly identified differences in actual rules and steps of play between claim 1 and the teachings of Brunelle and the failure of the teachings of claim 1 is so great that, even with every teaching of Jones (041) asserted in the Office Action to be assumed, *arguendo*, to be accurate, the rejection would still fail. Jones (041) cannot overcome the deficiencies of Brunelle with respect to the recitations of claims 1 (and all dependent claims) as noted above, including especially the **SECOND** and **THIRD** issues discussed above.

With respect to claims 9-12, Jones (041) does at least add one teaching of merit, and that is the use of poker-type games in casino table wagering environments. However, even the potential "**combination**" of Brunelle and Jones (041) cannot be done with any reasoned motivation from the two references, nor can the references be easily combined to show obviousness in the limitations of claim 9. Additionally, the fundamental underlying event of winning **two distinct bonus awards**, one from the player's hand on the bonus wager, and a second from the bonus hand **also based on the bonus wager** (as

opposed to a single bonus in Jones based on the player's hand), is not taught by either reference. Note that the claim 1 limitation is "the player attains at least a first bonus amount level on the player's placed optional side bet bonus wager." This does not occur in Brunelle, and the second bonus event on this single wager does not occur in Brunelle or Jones. This limitation cannot be obvious from the teachings of the references, even in combination.

Jones (041) as with Brunelle teaches that a single bonus bet award is based solely on the existence of the bonus bet (all hands are considered when there is a bonus bet) and the occurrence of a low count in a bonus hand (in Brunelle) or a high poker rank in the player's hand (Jones). In Brunelle, the single bonus award is based on the required maximum count of the player hand (9 or less) **plus** the combined count of the player hand and the bonus hand. In Jones, the single bonus award is based upon the player making the bonus wager and the player hand having a high poker rank. The events of Brunelle and Jones (alone and in combination) are totally outside the realm of any interpretation of the limitations in claim 9.

Claim 9 emphasizes that in a casino-type poker game:

"the player may have a bonus award to be paid on the player's hand  
enhanced by a predetermined rank being present in the bonus hand."

Thus, there must be a first "bonus award" on the player's hand and then a second "bonus award" on the bonus hand. There is never any similar event in Jones or Brunelle. The event recited in claim 9 is not taught by either reference or a combination of the references.

In Jones (041), the bonus award is paid independently of any winning or losing event between the player hand and the dealer hand. For example, in Jones (041), the player may have a hand rank of four-of-a-kind, lose to a dealer's straight flush, and then

receive a bonus award based on the four-of-a-kind, even though the player lost the underlying game.

In claim 9, it is required that “...a bonus award [is] to be paid on the player’s hand [and is to be] enhanced by a predetermined rank being present in the bonus hand ...” This limitation is absent from the teachings of both Brunelle (where a hand count of 9 or less is required for bonus consideration, and that may or may not be a winning hand, and may or may not have any award, much less a bonus award, (which is paid for only Three Aces) and Jones (041), where the only bonus consideration qualifying event is a bonus wager and a bonus rank. The bonus award on the bonus bet is independent of any initial payment made on a poker hand to a player based on rank or winning against a dealer hand.

Any bonus event paid by Brunelle on the bonus count hand is based on consideration of **both** the bonus hand and the specific count of the player’s hand, and is not (as recited in the claims) “enhanced by a predetermined rank being present in the bonus hand” as recited in the claim. The two “counts” of the hands are separately and in combination considered to determine a bonus win.

With respect to the combination of Brunelle in view of Jones (041), claim 20.

**Claim 20**

Claim 20 is additionally patentable over Brunelle and Brunelle in view of Jones (041) by specifically limiting play to two hands (as between each player and the house, with the only two hands being a player hand and bonus hand). This excludes the player versus dealer competition in both Brunelle and Jones (041). **It cannot be obvious to complete eviscerate the underlying games of both Brunelle and Jones to create an imaginary obviousness from the combination of references. It cannot be obvious to delete an essential step that is present in the two references that are being combined.**

**ARGUMENTS SUBMITTED IN THE REPLY BRIEF IN RESPONSE TO N=EW  
ARGUMENTS MADE BY THE EXAMINER.**

**The rejection of Claims 1-20 under 35 USC 103(a) As Unpatentable over Brunelle in  
View of Jones.**

The three new issues presented in the Examiner's Answer will be individually discussed, and their relationship to the original arguments presented will be considered in the original arguments filed in the Brief on Appeal. The three new issues are identified as:

- 1) The assertion there is "...no limitation that the side bet is **exclusively** based on a players' winning poker hand. Therefore, it [claim 1] does not matter whether Brunelle's player hand wins against the dealer or not."

This argument is considering the issue of infringement, and is not considering the burden on the Patent and Trademark Office to show that the limitations of the claims lack novelty or are obvious over the teachings of the references. Claim 1 requires in the play of the game that:

"...when the player hand has at least a predetermined winning arrangement of cards comprising a preselected winning poker rank, the player attains at least a first bonus amount level on the player's placed optional side bet bonus wager;..."

This is the limitation that is not taught by Brunelle in view of Jones. The fact that the claim allows additional or alternative events within the scope of the claims does not affect the failure of the rejection to show this limitation to be taught in the art. This new issue is wrong as a matter of law. This new issue merely interprets the scope of the claims, but does not show that Brunelle in view of Jones shows the limitation recited in the claims. See also the discussion of issue 3) below with regard to the ineffectiveness of the teaching of Brunelle in view of Jones et al.

- 2) It is asserted that "...in claim 1 there is no recitation that a player receives a **payment** on the bonus round. Claim 1 broadly recites 'the player **attains** at least a first bonus amount level on the player's [laced optional side bet bonus wager.' In Brunelle's game, a player attains a first bonus amount level when a player has a winning arrangement of cards..."

The comments in the Examiner's Answer attempt to play this limitation in opposite ways. That is not acceptable, nor is it a correct interpretation of the language. The language clearly and literally means "...the player **attains** at least a first bonus amount level on the player's [laced optional side bet bonus wager."

The definition of "attain" in the Random House Compact Unabridged Dictionary 1196, 2d Edition is "to reach, achieve, or accomplish; gain; obtain...Syn. 1. secure. See **gain**." In addition to this definition, Applicant has consistently argued that the term means effectively to "gain" or "obtain" the bonus amount level.

Another important element of the limitation is that the claim recites that the player in this step has gained the "bonus amount level." This is important, as it means and has been consistently interpreted and argued as meaning that the player has obtained a "bonus amount" at a defined level. This meaning, which has been consistently argued and presented by Applicant, and which is the clear meaning of the language, means that the player has gained a bonus amount at this stage of the claim method.

It is not allowable for the PTO to assert a meaning for the language that is not consistent with the clear meaning of the language and which is not consistent with the clear definition of the term to which Appellant has committed himself in the interpretation of the language. It is particularly not allowable to assert that Brunelle teaches this event when it is absolutely clear that Brunelle merely enters a bonus round, with no defined bonus amount won at that time when the count of his hand meets a defined limit. The language means that the player has gain economic advantage to a bonus amount at that step of the game, and then the player proceeds further. That limitation is not taught by Brunelle in view of Jones, Jr.

- 3) The Jones et al. reference is asserted for the first time to teach that "...the player attains at least a first bonus level amount..." and "...when a player's hand has at least a predetermined winning **poker** arrangement of cards..."

The problem with this assertion is that the assertion assumes a disclosure that is not present in Jones and elevates the actual disclosure to a level that does not exist in the teachings of Jones.

Specifically, the rejection asserts that Jones teaches that a player "attains at least a first bonus amount level" when a player's hand has at least a predetermined winning poker arrangement of cards. The error in this statement is the fact that Jones teaches a

one and only single event where a player gains a bonus award when the predetermined arrangement of cards is attained. It is not a first bonus level nor is it an at least first bonus level. Rather, it is the **only** bonus amount paid on the bonus wager. It is excessive characterization of the disclosure of the reference to assert that Jones teaches any more than winning a single bonus amount on a single bonus wager in a poker ranked game. This is an important mischaracterization of the Jones teaching as the existence of a sequence of **bonus wagering events** with multiple bonus payments **occurring on a single wager** is an element of novelty and unobviousness in the present claims. Attempting to read that limitation into a disclosure that is absolutely silent on the issue is clear error. There is no teaching of that limitation. This is repeated in the arguments below, which have been substantially identically provided in the original Brief on Appeal.

### CONCLUSION

All rejections of record have been shown in detail to be in error. The rejection should be reversed and all claims should be indicated as allowable.

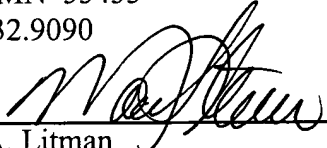
Applicants believe the claims are in condition for allowance and request reconsideration of the application and allowance of the claims. The Examiner is invited to telephone the below-signed attorney at 952-832-9090 to discuss any questions that may remain with respect to the present application.

Respectfully submitted,  
INVENTOR NAMES

By their Representatives,  
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By

  
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Signature



### **CLAIMS APPENDIX**

1. (PREVIOUSLY PRESENTED) A method of playing a live casino card game with a bonus game component comprising:
  - a player making a wager to play in the live casino card game and placing an optional side bet bonus wager on the bonus game component;
  - a first number of cards are dealt to a bonus hand position;
  - a second number of cards are dealt to the player,
  - when the player hand has at least a predetermined winning arrangement of cards comprising a preselected winning poker rank, the player attains at least a first bonus amount level on the player's placed optional side bet bonus wager;
  - when the player has a winning arrangement of cards and the first number of cards has at least a winning arrangement of cards, enhancing the first bonus amount level attained by the player.
2. (ORIGINAL) The method of claim 1, and further comprising a third number of cards dealt to the dealer, wherein the first number of cards, the second number of cards and the third number of cards are a same number of cards.
3. (ORIGINAL) The method of claim 1 wherein the live casino card game is a poker-type game wherein the player must place at least the ante bet and a first bonus bet to be able to place the optional side bet bonus wager.
4. (ORIGINAL) The method of claim 1 wherein the first number of cards comprises the first cards dealt in the game.

5. (ORIGINAL) The method of claim 1 wherein the first number of cards comprises cards dealt to the bonus hand position after at least one second number of cards has been dealt to a player.
6. (ORIGINAL) The method of claim 3 wherein the at least a predetermined poker hand rank for the player hand is at least a flush.
7. (ORIGINAL) The method of claim 3 wherein the at least a predetermined poker hand rank for the bonus hand is at least a specified pair.
8. (ORIGINAL) The method of claim 6 wherein the at least a predetermined poker hand rank for the bonus hand is at least a specified pair.
9. (ORIGINAL) A method of playing a casino table poker-type card game wherein a bonus hand, a dealer's hand and a player's hand are dealt,  
                    wherein the player plays against the dealer's hand for rank and the player may have a bonus award to be paid on the player's hand enhanced by a predetermined rank being present in the bonus hand.
10. (ORIGINAL) The method of claim 9 wherein the player a) plays against the dealer's hand for rank and b) the player may have a bonus award to be paid on the player's hand against a pay table, wherein the bonus award in b) can be enhanced by a predetermined rank being present in the bonus hand.
11. (ORIGINAL) The method of claim 9 wherein the player first becomes aware of the bonus award to be paid on the player's hand before the player can become aware that the bonus award to be paid is enhanced by the bonus hand.

12. (ORIGINAL) The method of claim 9 wherein the player first becomes aware of the bonus award to be paid on the player's hand before the player can become aware that the bonus award to be paid is enhanced by the bonus hand.

13. (ORIGINAL) The method of claim 2, wherein the live casino card game is a poker-type game.

14. (PREVIOUSLY PRESENTED) The method of claim 13, wherein a number of cards in the player hand, dealer hand and bonus hand are equal and are selected from the group consisting of 2, 3, 4, 5, 6 and 7 cards.

15. (ORIGINAL) The method of claim 1, wherein the live casino card game is selected from the group consisting of THREE CARD POKER® card game LET IT RIDE® card game and Blackjack.

16. (ORIGINAL) The method of claim 1 wherein the first number of cards in the bonus hand position are cards specific to play in the bonus event only and bonus hand position cards are not used in the play of the live casino table card game.

17. (ORIGINAL) The method of claim 3 wherein the first number of cards in the bonus hand position are cards specific to play in the bonus event only and bonus hand position cards are not used in the play of the live casino table card game.

18. (ORIGINAL) The method of claim 1 wherein the first number of cards in the bonus hand position are cards specific to play in the bonus event only and player hand

rank need not exceed bonus hand rank for the player to receive an enhanced bonus amount.

19. (ORIGINAL) The method of claim 3 wherein the first number of cards in the bonus hand position are cards specific to play in the bonus event only and player hand rank need not exceed bonus hand rank for the player to receive an enhanced bonus amount.

20. (PREVIOUSLY PRESENTED) A method of playing a live casino poker-type card game with a bonus game component comprising:

- a player making a wager to play in the live casino poker-type card game and placing an optional side bet bonus wager on the bonus game component;
- only two hands are dealt as between each player, a player hand and a bonus hand;
- a first number of cards are dealt to a bonus hand position;
- a second number of cards are dealt to the player as a player hand,
- when the player hand has at least a predetermined winning poker rank of cards, the player attains at least a first bonus amount level on the player's placed optional side bet bonus wager;
- when the player has a winning arrangement of cards and the first number of cards has at least a winning poker rank of cards, enhancing the first bonus amount level attained by the player.

**BRIEF ON APPEAL**

Serial Number: 10/ 658,864

Filing Date: September 9, 2003

Title: A CASINO CARD GAME WITH PARLAY BET FEATURE

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Docket No.: PA0912.ap.US

**EVIDENCE APPENDIX**

There is no supplemental evidence or declaration/affidavit evidence to be considered.

## **RELATED PROCEEDINGS APPENDIX**

There is no evidence from any related proceedings under any judicial or administrative authority in the U.S. or elsewhere in the world directly on the subject matter of these claims.